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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

Nigeria

1. The Committee considered Nigeria's initial report (E/1990/5/Add.31) at its 6th to 9th meetings held from 29 April to 1 May 1998 and adopted 1/ the following concluding observations:

A. Introduction

2. The Committee welcomes the presentation of Nigeria's initial report as well as the presence before the Committee of a delegation drawn from Nigeria's Permanent Mission at Geneva. The Committee regrets that no expert delegation could come from the capital and also the fact that Nigeria's initial report did not conform to the guidelines the Committee has established and that the additional information was received too late to be translated. Furthermore, the Nigerian delegation acknowledged that it was not equipped with the detailed and up-to-date facts and statistics required to satisfactorily answer the list of issues submitted by the Committee to the Nigerian Government 11 months earlier. Additional information promised by the delegation during the dialogue was never received.

1/ At its 22nd to 24th meetings (eighteenth session), held on 13 May 1998.

B. Factors and difficulties impeding the implementation of economic, social and cultural rights

3. The enjoyment of economic, social and cultural rights is hindered by the absence of the rule of law, the existence in Nigeria of military governments, the suspension of the Constitution in favour of rule by military decree and the concomitant resort to intimidation, and the negative effects of widespread corruption on the functioning of governmental institutions.

4. The Nigerian people are deprived of the necessary judicial protection of their human rights because the judiciary is undermined by "ouster clauses" attached to many military decrees as well as by the military Government's refusal to implement the judiciary's decisions.

5. The negative attitude of the Government of Nigeria with respect to the promotion and protection of human rights in general, and economic, social and cultural rights in particular, is further illustrated by its refusal to cooperate with the United Nations human rights mechanisms, in particular the Special Rapporteur of the Commission on Human Rights and the Secretary-General's fact-finding mission.

C. Positive aspects

6. The Committee welcomes the establishment of the Nigerian Human Rights Commission, although it notes that the powers and independence of the Commission have been the subject of criticism. The Commission has made salutary recommendations in the field of human rights and has recommended the creation of prison inspection committees. Many of the Commission's recommendations, however, have gone unheeded.

7. The Committee welcomes the establishment of a Ministry for Women's Affairs which is now responsible for the welfare of women and children. Small improvements have also been made in women's participation in the political process. Three women have been included in the current Cabinet.

8. It also welcomes the establishment of the National Child Rights Implementation Committee and the preparation of a National Child Plan of Action.

9. The Committee takes note of the statement by the delegation to the effect that Nigerian education and health sectors have, as from 1998, received more attention and larger budgetary allocations with substantial increases for infrastructure, health and education.

D. Principal subjects of concern

10. The Committee notes with regret that the Special Rapporteur of the Commission on Human Rights, as noted in his report (E/CN.4/1998/62), has not been permitted to visit the country and that the Nigerian Government failed to heed the appeals and concerns expressed by the Secretary-General's fact-finding mission, the decisions of the African Commission on Human and

Peoples' Rights and the statements of the Nigerian Human Rights Commission, the Commonwealth Ministerial Action Group and the International Labour Organization.

11. The Committee expresses its regret that the Nigerian authorities deemed it fit to expel an estimated 500 Chadian and other workers in inhuman and undignified circumstances, including persons with residence permits who had been legally established for many years in Nigeria and had participated in and contributed to the social security system. No adequate compensation is known to have been made to the majority of them.

12. In the light of the foregoing, and substantiated by the report of the Special Rapporteur of the Commission and by the latter's resolution 1998/64 of 21 April 1998 regarding the human rights situation in Nigeria, as well as by the many other reports of independent international organizations and NGOs (all the relevant material having been made available to the Nigerian delegation before and throughout the dialogue), the Committee draws the conclusion that the rule of law is absent in Nigeria, with the attendant extensive violations affecting all aspects and domains of economic, social and cultural rights in the State party.

13. The Committee is concerned about the high percentage of unemployment and underemployment among Nigerian workers, particularly agricultural workers, due to the neglect of the agricultural sector. This has led to massive migrations by agricultural workers in search of work to the cities, where they live in poverty and degrading conditions.

14. The Committee expresses its concern that women suffer discrimination in the workplace, particularly with respect to access to employment, promotion to higher positions and equal pay for work of equal value.

15. The Committee is concerned that the Executive Councils of the Nigeria Labour Congress, (NLC), the National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Association (PENGASSAN) were dissolved in 1994 by military decree and that military administrators have been appointed to run these trade unions since then. The Committee further notes with concern that the military Government has also decreased the number of labour unions from 42 to 29 and has prevented unions from associating with international federations of labour unions. In spite of repeated recommendations by the ILO, violations continue to persist. In this regard, the Committee regrets that the Nigerian Government has refused to receive the visit of a direct contacts mission of the ILO to discuss these matters.

16. The Committee is greatly concerned at the fate of the NUPENG General Secretary, Frank Kokori, and the PENGASSAN General Secretary, Milton Dabibi, who have been imprisoned for four and two years respectively, without being charged or tried. The Nigerian delegation could not explain why they have not been charged or tried until now.

17. The Committee expresses its deep concern over repeated violations of the right to strike, wherein industrial action by workers seeking higher salaries have been repressed by the Government under the pretext of State security.

18. The Committee expresses its concern about the Government's policy of retrenchment aimed at dismissing up to 200,000 employees in the public sector, without adequate compensation. The Committee notes with concern that in 1997 the military Governor of the State of Kaduna issued a decree dismissing 22,000 workers of the Kaduna State Civil Service when they went on strike.

19. It also expressed its dissatisfaction with the implementation of the inadequate social security system. The delegation indicated that the Nigerian Government does not interfere with the private sector, where most workers are now engaged. No statistics or other information were provided about the degree of enjoyment by employees of the private sector of their social security rights. Nor are there any statistics about the Government's attempts to spread the social security net to cover the majority of the unemployed poor. The National Nigerian Insurance Trust Fund does not cover all the needy. In the private sector, social security benefits are voluntary, depending on employers' whims.

20. The Committee deplores the failure of the Government of Nigeria to abolish female genital mutilation, a practice which is incompatible with the human rights of women and in particular with the right to health. According to UNICEF, the prevalence of female genital mutilation in Nigeria is estimated to be 50 per cent of the female population.

21. The Committee condemns the continuing existence of legal provisions which permit the beating ("chastisement") of women by their husbands.

22. The Committee notes with concern that polygamy, a practice which is very often incompatible with the economic, social and cultural rights of women, is widespread in Nigeria.

23. The Committee expresses its deep concern about the rising number of homeless women and young girls, who are forced to sleep in the streets where they are vulnerable to rape and other forms of violence.

24. Children are not much better off. Many resort to prostitution to feed themselves. The rate of school drop-outs at the primary school age is over 20 per cent. Twelve million children are estimated to hold one job or another. For those who go to school, up to 80 or more are crammed into dilapidated classrooms originally meant to take only a maximum of 40. They are the first to suffer the results of broken marriages. Nigerian law does not provide equal treatment to children born in wedlock and those born out of wedlock. Most alarming is the widespread problem of children suffering from malnutrition. Almost 30 per cent of Nigerian children suffer from malnutrition and its damaging consequences. According to UNICEF, all available evidence shows that hunger and malnutrition are prevalent in Nigeria.

25. The Committee is greatly disturbed that 21 per cent of the population of Nigeria live below the poverty line in spite of the country's rich natural resources. The Committee further notes with concern that due to economic and administrative mismanagement, corruption, runaway inflation and the rapid devaluation of the naira, Nigeria now ranks among the world's 20 poorest countries.

26. According to World Bank estimates at least 17 million Nigerians many of whom are children, are undernourished. The gap is widening between the (increasing) rate of population growth and the demand for food on the one hand, and the (falling) rate of food production, on the other hand. Nigeria has moved from an exporter of food items to a net importer.

27. The Committee is appalled at the great number of homeless people and notes with concern the acute housing problem in Nigeria where decent housing is scarce and relatively expensive. The urban poor, especially women and children, are forced to live in makeshift shelters in appalling and degrading conditions presenting hazards for both physical and mental health. Safe, treated pipe-borne water is available to about 50 per cent of urban dwellers but to only 30 per cent of rural inhabitants. In general, only 39 per cent of Nigeria's population has adequate access to clean drinking water.

28. The Committee notes with concern that gross under-funding and inadequate management of health services during the last decade had led to the rapid deterioration of health infrastructures in hospitals. The capital allocation for health and social services in the 1996 budget was N 1.7 billion, only 3.5 per cent of all capital allocations to federal ministries. Frequently, hospital patients not only have had to buy drugs, but have also had to supply needles, syringes and suture thread, in addition to paying for bed space. As a result many Nigerian doctors have chosen to emigrate.

29. The Committee notes with alarm the extent of the devastation that oil exploration has caused to environment and the quality of life in those areas, including Ogoniland where oil has been discovered and extracted without due regard for the health and well-being of the people and their environment.

30. The Committee regrets the fact that the Government's social and health allocations are consistently diminishing and that the authorities have reintroduced primary school fees in certain states and imposed hospital charges where they did not exist before.

31. Schoolchildren often have to carry their desks and chairs from their homes to the school. According to reports by UNICEF, there has been a marked reduction in school-age children going to school as parents cannot afford to pay the new drastically increased school fees for primary and secondary school. Recent poor educational quality is due partly to little teacher attention being devoted to schoolwork because of poor salaries, leading to incessant strikes and school closures.

32. University fees increased dramatically in 1997 and students in some universities, especially in southern Nigeria, were required to pay 10 times as much as other students. In addition, satellite campuses were forced to close for no particular reason.

33. The military authorities have found intellectuals, journalists, university professors and university students to be easy targets for repression or persecution on the pretext that they constitute the most vociferous and dangerous political opposition. One of the major university campuses has been put under military guardianship. Universities have suffered

repeated and long periods of closure. There is also a brain drain in academia, as a result of political and academic instability as well as the extremely low salaries of university professors.

E. Suggestions and recommendations

34. The restoration of democracy and the rule of law are prerequisites for the implementation of the International Covenant on Economic, Social and Cultural Rights in Nigeria. Elimination of the practice of governing by military decree and the strengthening of the authority of the Nigerian judiciary and the Human Rights Commission are necessary first steps in restoring confidence in the regime's intention to reinstitute democratic civilian rule.

35. The Committee urges the Nigerian Government to open up to United Nations bodies, specialized agencies and other international organizations and to conduct constructive and transparent dialogues with them, as a necessary step towards the restoration of confidence in Nigeria's intention to implement its human rights obligations, including those under the Covenant.

36. The Committee calls upon the Nigerian Government to restore a democratic political system and respect for the rule of law, which is a prerequisite for the development of a system of government which promotes full respect for economic, social and cultural rights. Respect for trade union freedoms and academic freedom should also be restored urgently.

37. The Committee urges the Government, in the strongest terms, to release trade union leaders and members, including in particular those named in paragraph 16 above, who have been imprisoned without being charged or tried. Harsh prison conditions should be alleviated and political prisoners freed and pardoned. The rights of labour unions and syndicates should be restored and respected.

38. The rights of minority and ethnic communities - including the Ogoni people - should be respected and full redress should be provided for the violations of the rights set forth in the Covenant that they have suffered.

39. The Committee calls on the Government to cease and prevent, in law and in practice, all forms of social, economic and physical violence and discrimination against women and children, especially the continuous, degrading and dangerous practice of female genital mutilation.

40. Likewise, the Nigerian Government should enact legislation and ensure by all appropriate means the protection of children against the many negative consequences ensuing from child labour, dropping out of school, malnutrition, and discrimination against children born out of wedlock.

41. The Nigerian Government should take steps to meet the targets it has accepted in relation to Education for All by the year 2000 and should enforce the right to compulsory, free primary education.

42. The Committee urges the Government of Nigeria to cease forthwith the massive and arbitrary evictions of people from their homes and to take such measures as are necessary to alleviate the plight of those who are arbitrarily evicted or are too poor to afford decent accommodation. In view of the acute shortage of housing, the Government should allocate adequate resources and make sustained efforts to combat this serious situation.

43. The Committee recommends that a more positive and open dialogue between the Committee and the Nigerian Government can be undertaken and maintained. The Government need not wait until its next report is due in five years' time; the Committee calls upon the Government to submit a comprehensive second periodic report, prepared in conformity with the Committee's guidelines, by 1 January 2000.

44. The Committee urges the State party to disseminate the present concluding observations widely.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
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Concluding observations of the Committee
on Economic, Social and Cultural Rights

SRI LANKA

1. The Committee considered the initial report of Sri Lanka on the implementation of the Covenant (E/1990/5/Add.32), together with the written replies to the list of questions, at its 3rd to 5th meetings, held on 28 and 29 April 1998, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Sri Lanka which generally conforms to its guidelines on the preparation of reports. The Committee expresses appreciation for the frank and constructive dialogue with representatives of the State party and for additional information presented during the dialogue.

B. Positive aspects

3. The Committee notes with satisfaction the desire expressed by the Government of Sri Lanka to promote the economic, social and cultural rights of its citizens in spite of the armed conflict in the country. It notes with appreciation the numerous international agencies involved in humanitarian assistance in cooperation with the Government of Sri Lanka.

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* At the 25th meeting (eighteenth session), held on 13 May 1998.

4. The Committee notes with appreciation that in spite of its relatively low per capita income, Sri Lanka has achieved progress in providing essential social services including free and compulsory education for all up to the age of 16, free health care, and food subsidies and supplements for targeted vulnerable groups. This has resulted in a higher UNDP human development index rating in relation to other countries in the same income group.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee recognizes that the prolonged period of violence and conflict that has affected Sri Lanka since 1983 has hampered the realization of economic, social and cultural rights in the country. The conflict has resulted in large-scale internal displacement of people, hindered government efforts to provide essential services in the affected areas, and diverted resources from social and development objectives.

D. Principal subjects of concern

The armed conflict between the Government and the Liberation Tigers of Tamil Eelam (LTTE)

6. The Committee regrets that its dialogue with representatives of the State party regarding the root causes of the armed conflict was inconclusive; the absence in the report of statistics relating to the north and east of the country can only reinforce the view of the Committee that the question of discrimination in relation to the economic, social and cultural rights of ethnic groups remains the central issue in the armed conflict in Sri Lanka. In this regard, the Committee notes with concern that the Government's peace plan, consisting of devolution of authority to regional governments through constitutional reform, has not been implemented. Although it has been more than three years since the plan was introduced, the timetable for its implementation, as well as for a referendum to determine public acceptance, remains unclear.

7. The Committee expresses its grave concern regarding the situation of an estimated 800,000 persons displaced because of the armed conflict, many of whom have been living in temporary shelters for the past 15 years and who lack basic sanitation, education, food, clothing and health care. It is reported that Tamil families who were forced by the military to leave their ancestral villages in the Welioya region are among the displaced. The Committee is alarmed by the results of an independent survey which estimated the incidence of undernourishment of women and children living in temporary shelters to be as high as 70 per cent, and by reports that in many cases food assistance did not reach the intended beneficiaries.

Discrimination

8. The Committee notes with concern the uncertain situation of 85,000 Tamils of Indian origin living in Sri Lanka. They possess neither Indian nor Sri Lankan citizenship, have no access to basic services such as education, and do not enjoy their economic, social and cultural rights.

9. The Committee notes with concern the existence of disparities between statutory law and customary law. The age for marriage in statutory law is 18 years old but girls as young as 12 years of age are able to marry under customary law, as long as the parents consent. The Committee is of the view that the practice of early marriage has negative impacts on the right to health, right to education and the right to work, particularly of the girl child. In statutory law, there is equality of inheritance among siblings while customary law discriminates against married women who, unlike married men, may not inherit family property. In allowing customary law to prevail over statutory law in this regard, the Government is not complying with its obligation to protect the rights of women against discrimination.

10. The Committee further notes with concern that existing legislation discriminates against children born out of wedlock who may inherit only from their mother. This legislation violates the rights set forth in article 10 of the Covenant.

11. The Committee expresses its deep concern at the lack of anti-discrimination mechanisms in the area of employment with regard to women and minority groups. The Committee notes that while a system of ethnic recruitment quotas is in place in the public sector, there is no effort to ensure that promotions in the public sector and employment in the private sector are free from discrimination. In particular, the concept of equal pay for work of equal value is not applied effectively in Sri Lanka, particularly in the private sector where women have no legal protection against discrimination in employment.

Women and children

12. The Committee deplores the Government's inability to implement its child labour laws effectively. Thousands of children are known to be fully employed, while thousands more are working as domestic servants in urban areas where many are mistreated, sexually abused and driven to prostitution. In addition, the Committee is deeply concerned about the sexual exploitation of Sri Lankan children by foreign tourists. The Committee regrets that detailed information on the magnitude of the problem was not provided. The Committee regrets further that the report of the State party does not provide a satisfactory indication of how serious the Government's efforts to protect the rights of these children are. The Committee notes with particular regret that more than 50 per cent of prostitutes are children.

13. The Committee notes with concern the plight of hundreds of thousands of Sri Lankan women working abroad as domestic helpers, many of them underpaid and treated as virtual slaves. The Committee regrets that the Government has not made a serious effort to assess the negative impact of this phenomenon on children who are left in vulnerable and difficult circumstances without their mothers and to take appropriate remedial measures.

14. The Committee notes that Sri Lanka not only has the second highest rate of suicide among youth in the world, but a rising incidence of drug and alcohol dependence, adolescent crime, child abuse, sexual disorders and

domestic violence against women. The Committee expresses its deep regret that the Government has failed to comply with its obligation under article 10 of the Covenant (concerning protection of the family) and article 12.

The right to an adequate standard of living

15. The Committee notes with grave concern the information from UNDP that 22 per cent of the population of Sri Lanka lives in poverty, and that many women and children are suffering from malnutrition. It also notes with grave concern the information regarding the continued acute shortages of adequate housing and construction materials for homes in need of repair. The Committee further notes the lack of updated information on the measures implemented by the Government in accordance with its obligations under article 11 of the Covenant.

Other concerns

16. The Committee also notes with concern that inadequate efforts appear to have been made by the Government to promote awareness among the women of Sri Lanka of their human rights.

17. The Committee is concerned that the Constitution does not expressly recognize the right to strike and imposes vague restrictions on the right to form trade unions, which would lead to penalties being arbitrarily imposed on workers who exercise these rights.

18. The Committee notes with concern that the current policy allowing industry-specific wage boards to determine minimum wages does not protect workers in the smaller industries which are not part of the wage board system.

19. The Committee expresses concern that the distinction contained in the current Constitution between "citizens" and "other persons" with respect to the right to equality, has not been removed from the proposed revised Constitution currently before Parliament.

20. The Committee notes with concern the uncertain situation concerning demolition of houses and illegal settlements in Sri Lanka.

E. Suggestions and recommendations

21. The Committee is fully aware of the human and material costs of the armed conflict in Sri Lanka and the deleterious effects this has on the economic, social and cultural rights of every person living in the country. In the hope of a just, speedy and peaceful solution to the war, the Committee urges the Government, as a matter of the highest priority, to negotiate the acceptance by all concerned of its proposed peace plan involving devolution of authority to regional governments. The Committee requests the State party to include in its next report detailed information on how the process of devolution of authority affects the enjoyment of economic, social and cultural rights throughout the country. In this regard, the Committee reiterates that it attaches great importance to the gathering of relevant data, disaggregated

by all factors including gender, age, ethnicity and nationality, which may help identify vulnerable groups in society. The Committee requests that such data be made available to it in the next report of the State party.

22. The Committee strongly recommends that the Government establish mechanisms to facilitate the flow of humanitarian assistance and to strictly monitor and ensure that the intended recipients actually receive the assistance. In particular, the Committee urges the Government to seek further international assistance in its efforts to provide permanent housing to displaced persons who have been living in "temporary" shelters since the war began 15 years ago. It is further recommended that the Government reassess the food assistance programme already in place in affected areas with a view to improving the nutritional standards of the food provided, particularly to children and expectant and nursing mothers.

23. The Committee takes note of the Governments's avowed plans to award citizenship to the 85,000 stateless Tamils living on Sri Lankan territory. The Committee requests an update regarding this situation in the next periodic report.

24. The Committee urges the State party to enforce the minimum legal age for marriage of 18 years, as well as inheritance laws affecting women, thereby superseding discriminatory customs and traditions. The Committee urges the State party to repeal all laws that discriminate against children born out of wedlock.

25. The Committee recommends that the State party adopt policies and implement relevant measures to combat discrimination in employment against women and minority groups in both the private and public sectors. Particular attention should be paid to the enjoyment by women and men of the right to equal pay for work of equal value.

26. The Committee urges the Government vigorously to enforce its child labour laws and to establish immediately a legal minimum age for work in all industries that is in accordance with international standards. In relation to the exploitation of children, the Committee strongly recommends that Sri Lankan authorities renew their efforts to seek out those who are responsible for the sexual exploitation of children and to prosecute them to the full extent of the law. The Committee encourages the Government to seek the cooperation of other Governments in bringing to justice all those who engage in the sexual exploitation of children, and international assistance to establish rehabilitation programmes to facilitate the reintegration into society of children who have been victimized.

27. The Committee strongly recommends that the Government undertake an assessment of the impact on children of the prolonged absence of their mothers working abroad with a view to educating Sri Lankan women in this regard, and to discourage women from leaving the country for employment abroad as domestic helpers, the conditions of which are often deplorable.

28. The Committee further requests that an updated report be provided on progress achieved by the Government in addressing the problems of poverty, malnutrition and lack of adequate housing.

29. The Committee recognizes that economic conditions provide a strong incentive for many adults to seek work abroad, but notes that any resulting separation of parents, and especially mothers, from their children can have significant negative consequences, especially for the children. The Committee recommends that a study be undertaken to shed more light on the issues involved and to provide a basis for more informed decision-making in such cases.

30. The Committee has taken note that a presidential task force has been investigating the problem of suicide among the youth and has issued recommendations in this regard. The Committee requests that the report of this task force, as well as information on action pursuant to its recommendation, be made available in the next report submitted by the State party.